

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

VALSAMMA MATHAI

Plaintiff,

ANSWER

-against-

Civil Action No.: 1:13-CV-997
(GTS/CFH)

ANNIE GEORGE, a/k/ ANNIE KOLATH, a/k/a SAJIMOL
GEORGE,

Defendant.

The defendant, Annie Kolath (s/h/a Annie George a/k/a Annie Kolath a/k/a Sajimol George) (hereinafter “defendant”), by and through her attorneys, Hacker Murphy, LLP, as and for an Answer to plaintiff’s complaint, sets forth as follows:

1. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “1” of plaintiff’s complaint.
2. Defendant denies the allegations contained in paragraph “2” of plaintiff’s complaint.
3. Defendant denies the allegations contained in paragraph “3” of plaintiff’s complaint.
4. Defendant denies the allegations contained in paragraph “4” of plaintiff’s complaint.
5. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “5” of plaintiff’s complaint.
6. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “6” of plaintiff’s complaint.

7. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “7” of plaintiff’s complaint.

8. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “8” of plaintiff’s complaint.

9. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “9” of plaintiff’s complaint.

10. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “10” of plaintiff’s complaint.

11. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “11” of plaintiff’s complaint.

12. Defendant admits the allegations contained in paragraph “12” of plaintiff’s complaint.

13. Defendant denies the allegations contained in paragraph “13” of plaintiff’s complaint.

14. Defendant denies the allegations contained in paragraph “14” of plaintiff’s complaint.

15. Defendant admits the allegations contained in paragraph “15” of plaintiff’s complaint.

16. Defendant denies the allegations contained in paragraph “16” of plaintiff’s complaint.

17. Defendant denies the allegations contained in paragraph “17” of plaintiff’s complaint.

18. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "18" of plaintiff's complaint.

19. Defendant denies the allegations contained in paragraph "19" of plaintiff's complaint.

20. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "20" of plaintiff's complaint.

21. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "21" of plaintiff's complaint.

22. Defendant denies the allegations contained in paragraph "22" of plaintiff's complaint.

23. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "23" of plaintiff's complaint.

24. Defendant denies the allegations contained in paragraph "24" of plaintiff's complaint.

25. Defendant denies the allegations contained in paragraph "25" of plaintiff's complaint.

26. Defendant denies the allegations contained in paragraph "26" of plaintiff's complaint.

27. Defendant denies the allegations contained in paragraph "27" of plaintiff's complaint.

28. Defendant denies the allegations contained in paragraph "28" of plaintiff's complaint.

29. Defendant denies the allegations contained in paragraph “29” of plaintiff’s complaint.

30. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “30” of plaintiff’s complaint.

31. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “30” of plaintiff’s complaint.

32. Defendant denies the allegations contained in paragraph “32” of plaintiff’s complaint.

33. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “33” of plaintiff’s complaint.

34. Defendant denies the allegations contained in paragraph “34” of plaintiff’s complaint.

35. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “35” of plaintiff’s complaint.

36. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “36” of plaintiff’s complaint.

37. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “37” of plaintiff’s complaint.

38. Defendant denies the allegations contained in paragraph “38” of plaintiff’s complaint.

39. Defendant denies the allegations contained in paragraph “39” of plaintiff’s complaint.

40. Defendant denies the allegations contained in paragraph “40” of plaintiff’s complaint.

41. Defendant denies the allegations contained in paragraph “41” of plaintiff’s complaint.

42. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “42” of plaintiff’s complaint.

43. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “43” of plaintiff’s complaint.

44. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “44” of plaintiff’s complaint.

45. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “45” of plaintiff’s complaint.

46. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “46” of plaintiff’s complaint.

47. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “47” of plaintiff’s complaint.

48. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “48” of plaintiff’s complaint.

49. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “49” of plaintiff’s complaint.

50. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “50” of plaintiff’s complaint.

51. Defendant denies the allegations contained in paragraph "51" of plaintiff's complaint.

52. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "52" of plaintiff's complaint.

53. Defendant denies the allegations contained in paragraph "53" of plaintiff's complaint.

54. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "54" of plaintiff's complaint.

55. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "55" of plaintiff's complaint.

56. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "56" of plaintiff's complaint.

57. Defendant repeats, realleges and reiterates the denials to the paragraphs "1" through "56" above of plaintiff's complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

58. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph "58" of plaintiff's complaint.

59. Defendant denies the allegations contained in paragraph "59" of plaintiff's complaint.

60. Defendant denies the allegations contained in paragraph "60" of plaintiff's complaint.

61. Defendant denies the allegations contained in paragraph "61" of plaintiff's complaint.

62. Defendant denies the allegations contained in paragraph “62” of plaintiff’s complaint.

63. Defendant denies the allegations contained in paragraph “63” of plaintiff’s complaint.

64. Defendant repeats, realleges and reiterates the denials to the paragraphs “1” through “63” above of plaintiff’s complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

65. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “65” of plaintiff’s complaint.

66. Defendant denies the allegations contained in paragraph “66” of plaintiff’s complaint.

67. Defendant denies the allegations contained in paragraph “67” of plaintiff’s complaint.

68. Defendant denies the allegations contained in paragraph “68” of plaintiff’s complaint.

69. Defendant repeats, realleges and reiterates the denials to the paragraphs “1” through “68” above of plaintiff’s complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

70. Defendant denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph “70” of plaintiff’s complaint.

71. Defendant denies the allegations contained in paragraph “71” of plaintiff’s complaint.

72. Defendant denies the allegations contained in paragraph “72” of plaintiff’s complaint.

73. Defendant denies the allegations contained in paragraph “73” of plaintiff’s complaint.

74. Defendant denies the allegations contained in paragraph “74” of plaintiff’s complaint.

75. Defendant denies the allegations contained in paragraph “75” of plaintiff’s complaint.

76. Defendant repeats, realleges and reiterates the denials to the paragraphs “76” through “75” above of plaintiff’s complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

77. Defendant denies the allegations contained in paragraph “77” of plaintiff’s complaint.

78. Defendant denies the allegations contained in paragraph “78” of plaintiff’s complaint.

79. Defendant denies the allegations contained in paragraph “79” of plaintiff’s complaint.

80. Defendant repeats, realleges and reiterates the denials to the paragraphs “1” through “79” above of plaintiff’s complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

81. Defendant denies the allegations contained in paragraph “81” of plaintiff’s complaint.

82. Defendant denies the allegations contained in paragraph “82” of plaintiff’s complaint.

83. Defendant repeats, realleges and reiterates the denials to the paragraphs “1” through “82” above of plaintiff’s complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

84. Defendant denies the allegations contained in paragraph “84” of plaintiff’s complaint.

85. Defendant denies the allegations contained in paragraph “85” of plaintiff’s complaint.

86. Defendant repeats, realleges and reiterates the denials to the paragraphs “1” through “85” above of plaintiff’s complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

87. Defendant denies the allegations contained in paragraph “87” of plaintiff’s complaint.

88. Defendant denies the allegations contained in paragraph “88” of plaintiff’s complaint.

89. – 98. Not provided in plaintiff’s complaint.

99. Defendant repeats, realleges and reiterates the denials to the paragraphs “1” through “88” above of plaintiff’s complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

100. Defendant denies the allegations contained in paragraph “100” of plaintiff’s complaint.

101. Defendant denies the allegations contained in paragraph “101” of plaintiff’s complaint.

102. Defendant denies the allegations contained in paragraph “102” of plaintiff’s complaint.

103. Defendant denies the allegations contained in paragraph “103” of plaintiff’s complaint.

104. Defendant repeats, realleges and reiterates the denials to the paragraphs “1” through “103” above of plaintiff’s complaint realleged and incorporated by reference all allegations in the preceding paragraphs.

105. Defendant denies the allegations contained in paragraph “105” of plaintiff’s complaint.

106. Defendant denies the allegations contained in paragraph “106” of plaintiff’s complaint.

107. Defendant denies each and every allegation of the complaint not heretofore expressly admitted, controverted or denied.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

108. The Complaint fails to state a claim, in whole or in part, upon which relief may be granted as against defendant.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

109. Plaintiff’s claim for relief is barred in whole or in part by the applicable statute of limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

110. Plaintiff was never defendant's employee.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

111. Defendant denies that she has violated the law. However, even if such a violation could somehow be proven, defendant is not liable for punitive damages, liquidated damages, or penalties because defendant has not committed any willful violation and, in fact, has acted in a good faith belief that she was in compliance with the law.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

112. If plaintiff suffered any damages as a result of the matters alleged in the Complaint, such damages were caused wholly or in part as the result of plaintiff's own culpable conduct. Plaintiff illegally stayed in the United States with a valid visa for over many years and used the opportunity to stay at defendant's residence in a clandestine attempt to obtain a U.S. visa which she eventually did.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

113. Defendant denies that plaintiff was an employee, however, to the extent she is considered a babysitter or domestic worker she is exempt from overtime and minimum wage laws.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

114. Upon information and belief, plaintiff was an independent contractor. By agreement she agreed to accept a certain monetary wage plus room and board in exchange for providing services for defendant. Plaintiff was not threatened, coerced, or restrained—she was free to leave at any time she desired.

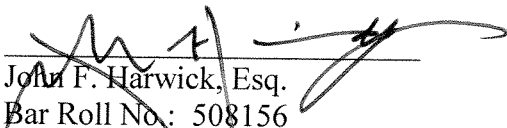
AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

115. Upon information and belief, the plaintiff voluntarily resided with the defendant as a guest.

Dated: November 15, 2013
Latham, New York

HACKER MURPHY, LLP

By:


John F. Harwick, Esq.
Bar Roll No.: 508156
Attorneys for Defendant
7 Airport Park Boulevard
Latham, New York 12110
Tel. No.: (518) 783-3843

TO: David O. Irving
Worker Justice Center of New York, Inc.
Bar Roll No.: 516414
Attorney for Plaintiff
1187 Culver Road
Rochester, NY 14609
Tel. No.: (585) 325-3050

HACKER
MURPHY,
LLP

ATTORNEYS AT LAW